

§ 201.8

and a reading of the application in its totality indicates that there is no copyrightable new material on which to base a claim;

(viii) A work subject to the manufacturing provisions of the Act of 1909 was apparently published in violation of those provisions;

(ix) For a work published after January 1, 1978, the only claimant given on the application was deceased on the date the application was certified;

(x) A work is not anonymous or pseudonymous and statements on the application and/or copy vary so much that the author cannot be identified; and

(xi) Statements on the application conflict or are so unclear that the claimant cannot be adequately identified.

(d) *Minor substantive errors.* Where a registration includes minor substantive errors or omissions which would generally have been rectified before registration, the Copyright Office will attempt to rectify the error through correspondence with the remitter. Except in those cases enumerated in paragraph (c) of this section, if the Office is unable for any reason to obtain the correct information or deposit copy, the registration record will be annotated to state the nature of the informality and show that the Copyright Office attempted to correct the registration.

[50 FR 40835, Oct. 7, 1985, as amended at 60 FR 34168, June 30, 1995; 65 FR 39819, June 28, 2000; 66 FR 34372, June 28, 2001]

§ 201.8 [Reserved]

§ 201.9 Recordation of agreements between copyright owners and public broadcasting entities.

(a) License agreements voluntarily negotiated between one or more owners of copyright in published nondramatic musical works and published pictorial, graphic, and sculptural works, and one or more public broadcasting entities, and terms and rates of royalty payments agreed to among owners of copyright in nondramatic literary works and public broadcasting entities will be filed in the Copyright Office, Licensing Division by recordation upon payment of the fee prescribed by § 201.3. The doc-

37 CFR Ch. II (7-1-01 Edition)

ument submitted for recordation shall meet the following requirements:

(1) It shall be an original instrument of agreement; or it shall be a legible photocopy or other full-size facsimile reproduction of an original, accompanied by a certification signed by at least one of the parties to the agreement, or an authorized representative of that party, that the reproduction is a true copy;

(2) It shall bear the signatures of all persons identified as parties to the agreement, or of their authorized agents or representatives;

(3) It shall be complete on its face, and shall include any schedules, appendixes, or other attachments referred to in the instrument as being part of it; and

(4) It shall be clearly identified, in its body or a covering transmittal letter, as being submitted for recordation under 17 U.S.C. 118.

(b) The fee for recordation of a voluntary license agreement under this section is the basic recordation fee as prescribed in § 201.3(c).

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. A document is filed in the Copyright Office, and a filing in the Copyright Office takes place on the date of recordation. After recordation the document is returned to the sender with a certificate of record.

(17 U.S.C. 207 and 17 U.S.C. 118, 702, 708(11), as amended by Pub. L. 94-553)

[42 FR 16777, Mar. 30, 1977, as amended at 46 FR 33249, June 29, 1981; 56 FR 59885, Nov. 26, 1991; 64 FR 29521, June 1, 1999]

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(a) *Form.* The Copyright Office does not provide printed forms for the use of persons serving notices of termination.

(b) *Contents.* (1) A notice of termination must include a clear identification of each of the following:

(i) The name of each grantee whose rights are being terminated, or the grantee's successor in title, and each address at which service of the notice is being made;

(ii) The title and the name of at least one author of, and the date copyright was originally secured in, each work to which the notice of termination applies; and, if possible and practicable, the original copyright registration number;

(iii) A brief statement reasonably identifying the grant to which the notice of termination applies;

(iv) The effective date of termination; and

(v) In the case of a termination of a grant executed by a person or persons other than the author, a listing of the surviving person or persons who executed the grant. In the case of a termination of a grant executed by one or more of the authors of the work where the termination is exercised by the successors of a deceased author, a listing of the names and relationships to that deceased author of all of the following, together with specific indication of the person or persons executing the notice who constitute more than one-half of that author's termination interest: That author's surviving widow or widower; and all of that author's surviving children; and, where any of that author's children are dead, all of the surviving children of any such deceased child of that author; however, instead of the information required by this paragraph (v), the notice may contain both of the following:

(A) A statement of as much of such information as is currently available to the person or persons signing the notice, with a brief explanation of the reasons why full information is or may be lacking; together with

(B) A statement that, to the best knowledge and belief of the person or persons signing the notice, the notice has been signed by all persons whose signature is necessary to terminate the grant under section 304(c) of title 17, U.S.C., or by their duly authorized agents.

(2) Clear identification of the information specified by paragraph (b)(1) of this section requires a complete and unambiguous statement of facts in the notice itself, without incorporation by reference of information in other documents or records.

(c) *Signature.* (1) In the case of a termination of a grant executed by a per-

son or persons other than the author, the notice shall be signed by all of the surviving person or persons who executed the grant, or by their duly authorized agents.

(2) In the case of a termination of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or by his or her duly authorized agent. If that author is dead, the notice shall be signed by the number and proportion of the owners of that author's termination interest required under clauses (1) and (2) of section 304(c) of title 17, U.S.C., or by their duly authorized agents, and shall contain a brief statement of their relationship or relationships to that author.

(3) Where a signature is by a duly authorized agent, it shall clearly identify the person or persons on whose behalf the agent is acting.

(4) The handwritten signature of each person effecting the termination shall either be accompanied by a statement of the full name and address of that person, typewritten or printed legibly by hand, or shall clearly correspond to such a statement elsewhere in the notice.

(d) *Service.* (1) The notice of termination shall be served upon each grantee whose rights are being terminated, or the grantee's successor in title, by personal service, or by first-class mail sent to an address which, after a reasonable investigation, is found to be the last known address of the grantee or successor in title.

(2) The service provision of section 304(c)(4) of title 17, U.S.C., will be satisfied if, before the notice of termination is served, a reasonable investigation is made by the person or persons executing the notice as to the current ownership of the rights being terminated, and based on such investigation:

(i) If there is no reason to believe that such rights have been transferred by the grantee to a successor in title, the notice is served on the grantee; or

(ii) If there is reason to believe that such rights have been transferred by the grantee to a particular successor in title, the notice is served on such successor in title.

(3) For purposes of paragraph (d)(2) of this section, a *reasonable investigation* includes, but is not limited to, a search of the records in the Copyright Office; in the case of a musical composition with respect to which performing rights are licensed by a performing rights society, a “reasonable investigation” also includes a report from that performing rights society identifying the person or persons claiming current ownership of the rights being terminated.

(4) Compliance with the provisions of clauses (2) and (3) of this paragraph (d) will satisfy the service requirements of section 304(c)(4) of title 17, U.S.C. However, as long as the statutory requirements, have been met, the failure to comply with the regulatory provisions of paragraphs (d) (2) or (3) of this section will not affect the validity of the service.

(e) *Harmless errors.* (1) Harmless errors in a notice that do not materially affect the adequacy of the information required to serve the purposes of section 304(c) of title 17, U.S.C., shall not render the notice invalid.

(2) Without prejudice to the general rule provided by paragraph (e)(1) of this section (e), errors made in giving the date or registration number referred to in paragraph (b)(1)(ii) of this section, or in complying with the provisions of paragraph (b)(1)(v) of this section, or in describing the precise relationships under clause (2) of paragraph (c) of this section, shall not affect the validity of the notice if the errors were made in good faith and without any intention to deceive, mislead, or conceal relevant information.

(f) *Recordation.* (1) A copy of the notice of termination will be recorded in the Copyright Office upon payment of the fee prescribed by paragraph (2) of this paragraph (f) and upon compliance with the following provisions:

(i) The copy submitted for recordation shall be a complete and exact duplicate of the notice of termination as served and shall include the actual signature or signatures, or a reproduction of the actual signature or signatures, appearing on the notice; where separate copies of the same notice were served on more than one grantee or

successor in title, only one copy need be submitted for recordation; and

(ii) The copy submitted for recordation shall be accompanied by a statement setting forth the date on which the notice was served and the manner of service, unless such information is contained in the notice.

(2) The fee for recordation of a document is prescribed in § 201.3(c).

(3) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee and, if required, the statement referred to in paragraph (f)(1)(ii) of this section, have been received in the Copyright Office. After recordation, the document, including any accompanying statement, is returned to the sender with a certificate of record.

(4) Recordation of a notice of termination by the Copyright Office is without prejudice to any party claiming that the legal and formal requirements for issuing a valid notice have not been met.

(Pub. L. 94-553; 17 U.S.C. 304(c), 702, 708(11))

[42 FR 45920, Sept. 13, 1977, as amended at 56 FR 59885, Nov. 26, 1991; 60 FR 34168, June 30, 1995; 64 FR 29521, June 1, 1999; 64 FR 36574, July 7, 1999; 66 FR 34372, June 28, 2001]

§ 201.11 Satellite carrier statements of account covering statutory licenses for secondary transmissions for private home viewing.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by the satellite carrier license of section 119(b)(1) of title 17 of the United States Code, as amended by Pub. L. 103-369, in order that certain secondary transmissions by satellite carriers for private home viewing be subject to statutory licensing.

(b) *Definitions.* (1) The terms *distributor*, *network station*, *private home viewing*, *satellite carrier*, *subscriber*, *superstation*, and *unserved household* have the meanings set forth in section 119(d) of title 17 of the United States Code, as amended by Pub. L. 103-369.

(2) The terms *primary transmission* and *secondary transmission* have the meanings set forth in section 111(f) of title 17 of the United States Code.